



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

April 28, 1999

Michael Kovaka, Esq.
Dow, Lohnes & Albertson, P.L.L.C.
1200 New Hampshire Avenue, NW, Suite 800
Washington D.C., 20036-6802

RE: MUR 4748

Dear Mr. Kovaka:

On May 28, 1998, the Federal Election Commission notified your client, Pamela Spagnol, of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint was forwarded to your clients at that time.

Upon further review of the allegations contained in the complaint, and information supplied by you, the Commission, on April 13, 1999, found that there is reason to believe Pamela Spagnol violated 2 U.S.C. § 441f, a provision of the Act. The Factual and Legal Analysis, which formed a basis for the Commission's finding, is attached for your information.

You may submit any factual or legal materials that you believe are relevant to the Commission's consideration of this matter. Please submit such materials to the General Counsel's Office within 15 days of receipt of this letter. Where appropriate, statements should be submitted under oath. In the absence of additional information, the Commission may find probable cause to believe that a violation has occurred and proceed with conciliation.

If you are interested in pursuing pre-probable cause conciliation, you should so request in writing. See 11 C.F.R. § 111.18(d). Upon receipt of the request, the Office of the General Counsel will make recommendations to the Commission either proposing an agreement in settlement of the matter or recommending declining that pre-probable cause conciliation be pursued. The Office of the General Counsel may recommend that pre-probable cause conciliation not be entered into at this time so that it may complete its investigation of the matter. Further, the Commission will not entertain requests for pre-probable cause conciliation after briefs on probable cause have been mailed to the respondent.

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Requests for extensions of time will not be routinely granted. Requests must be made in writing at least five days prior to the due date of the response and specific good cause must be demonstrated. In addition, the Office of the General Counsel ordinarily will not give extensions beyond 20 days.

This matter will remain confidential in accordance with 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A) unless you notify the Commission in writing that you wish the matter to be made public.

If you have any questions, please contact April Sands, the attorney assigned to this matter, at (202) 694-1650.

Sincerely,



Scott E. Thomas
Chairman

Enclosures
Factual and Legal Analysis

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FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENT: Pamela Spagnol

MUR: 4748

I. GENERATION OF MATTER

This MUR arises from a complaint filed by Judith L. Corley, counsel for Citizens for Ron Klink. The complainant alleges that WPXI-TV ("WPXI") and employees of WPXI violated the Federal Election Campaign Act ("the Act") by making an unlawful corporate contribution and by using corporate funds to make a contribution in the name of another.

II. FACTUAL AND LEGAL ANALYSIS

A. Law

The Federal Election Campaign Act ("the Act") prohibits corporations or any director or officer of a corporation from making a contribution or expenditure in connection with any election to a federal political office. 2 U.S.C. § 441b(a). A contribution or expenditure includes "any direct or indirect payment, distribution, loan advance, deposit, or gift of money or any services, or anything of value (except a loan of money by a bank in accordance with applicable laws and regulations and in the ordinary course of business) to any candidate, campaign committee, or political party organization" 2 U.S.C. § 441b(b)(2).

The Act also prohibits a contributor from attempting to hide a contribution to a candidate or committee by making the contribution in the name of another person. 2 U.S.C. § 441f.

B. Facts

MUR 4748 arose from a complaint received by the Federal Election Commission ("Commission") on May 19, 1998. Judith L. Corley, as counsel for Citizens for Ron Klink,

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alleges that television station WPXI of Pittsburgh, Pennsylvania, and Pam Spagnol violated two sections of the Federal Election Campaign Act. Specifically, the complaint alleges that WPXI made unlawful corporate contributions to Congressman Ron Klink and other members of Congress from western Pennsylvania, a violation of § 441b, and that Pam Spagnol made a contribution in the name of another, a violation of § 441f of the Act.

The heart of this MUR involves the production of a news story to see whether a member of Congress is more apt to respond to a constituent's policy query when a contribution is attached, than when one is not. According to the complaint, Mary Kiernan, an Administrative Assistant for Congressman Ron Klink, received a call on May 15, 1998 from Carrie Moniot, apparently a producer for WPXI.¹ Ms. Kiernan relates that Ms. Moniot requested an interview with the Congressman because she believed that the office had "cashed 'their' check." When Ms. Kiernan asked her to elaborate, Ms. Moniot explained that the station had asked two employees to each write a letter to all the members of Congress from western Pennsylvania.² She further explained that one employee was instructed to send a letter with a question about Social Security while the other employee was to send an identical letter but with a campaign contribution enclosed. According to Ms. Kiernan, Ms. Moniot mentioned that the station had provided funds to make the political contributions. Ms. Moniot also explained that the station wanted to see if enclosing a political contribution would result in an expedited response from the members of Congress.

Another target of the WPXI news story was Congressman Phil English. Apparently, at some point a contribution from Ms. Spagnol was sent to his office. Later in June of 1998, after this complaint was filed, Ms. Spagnol sent a letter to the Congressman's office informing them that the letter and \$50 contribution were "sent as part of a news story that was being prepared for WPXI-TV."

¹ See Barbara Vancheri, Dr. Quinn Flatlines at CBS; Fans Attempt Resuscitation, Pittsburgh Post Gazette, May 28, 1998, §G, at 4 (describing that Ms. Moniot won an award for producing "Regional Sales Tax: The Voter's Choice," on WPXI).

² WPXI has not identified the employee who sent the other letter or indicated whether that employee may have included a contribution to any of the other recipients.

C. Analysis

Contributions given in the name of another.

Pamela Spagnol appears to have violated 2 U.S.C. § 441f. The material available indicates that Ms. Spagnol wrote at least three checks to members of Congress from western Pennsylvania. In addition, according to the complaint, Ms. Moniot mentioned that WPXI provided funds for these contributions. Thus, it appears that Ms. Spagnol allowed her name to be used to make a contribution in her name with funds that were actually from WPXI.

D. Conclusion

Therefore, there is reason to believe that Pamela Spagnol violated 2 U.S.C. § 441f.